

REMARKS

Claims 1-7 remain in this application.

Claims 1 and 3-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kannan in view of Ginsberg (US Patent No. 6,064,730). Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kannan in view of Ginsberg and Gourraud (US Patent Application Publication No. 2004/0122896 A1). In addition, Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kannan and Ginsberg in view of Hawkes et al. (US Patent Application Publication No. 2002/0055974 A1). Applicant respectfully traverses these rejections for the exemplary reasons provided below.

On Page 2 of the Final Office Action, the Examiner stated that “the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.”

Applicant agrees with the Examiner’s statement. However, in order to determine “what the combined teachings of the references would have suggested to those of ordinary skill in the art,” the Examiner must consider the references “as a whole, including portions that would lead away from the claimed invention.” *See* MPEP § 2141.03. As Applicant pointed out in the previous response filed on February 19, 2008, “[w]hen a proposed modification or combination of the prior art would render the prior art invention unsatisfactory for its intended purpose or change the principle of operation of the prior art invention, there is no suggestion or motivation to make the proposed modification. As a result, the teachings of the references are not sufficient to render the claims *prima facie* obvious.” *See* MPEP § 2143.01.

Applicant is not arguing that the features of Ginsberg et al. cannot be bodily incorporated into the structure of Kaanan. Instead, Applicant is arguing that when the features of Ginsberg et al. are bodily incorporated into the structure of Kaanan, it changes the principle of operation of Kaanan, and therefore, renders Kaanan unsatisfactory for its intended purpose. As stated in MPEP § 2145 (III), although “it is not necessary that the inventions of the references be physically combinable to render obvious the invention under review,” ... “the claimed combination cannot change the principle of operation of the primary reference or render the reference inoperable for its intended purpose.”

As argued in Applicants previous response filed on February 19, 2008, Kaanan specifically teaches “matching the stored query to a CSR based on at least one of the following criteria: content, context, question and qualifications; and storing the query in a service queue capable of being displayed in the CSR service window by the matched CSR.” (*Kaanan, Paragraph 28*). Thus, it is only after the customer has sent a query (selected the option of on-line or live service) that the server matches the customer with a particular customer service representative (CSR). The server cannot know the wait time for the CSR until the customer has sent the query and matching has occurred. Therefore, it is not possible for the server to display the wait time prior to the user entering the query. If, for arguments sake, the server were to display a general wait time, this wait time may be inaccurate depending on the query that the user subsequently enters, and therefore, may prevent the customer from entering a query, which is undesirable in Kaanan. As such, modifying Kaanan to include Ginsberg would change the principle of operation of Kaanan and render Kaanan unsatisfactory for its intended purpose.

For at least these reasons, Applicants respectfully submit that Claims 1 and 3-6 are not obvious over the prior art of record. Accordingly, Applicants respectfully request that the Examiner withdraw the § 103 rejection of Claims 1 and 3-6. In addition, the aforementioned Claims 2 and 7 recite all of the exemplary features discussed above with respect to the rejection of Claim 1. Both Gourraud and Hawkes et al. fail to remedy the above-described deficiencies of Kannan and Ginsberg, in that neither Gourraud nor Hawkes teach or describe presence

Reply Under 37 C.F.R. § 1.116
Serial No.: 10/721,558
Examiner: Tonya S. Joseph

information of customer support representatives being displayed simultaneous with a user selectable option for real time customer support to assist a user in deciding whether to select the user selectable option, so the rejections of Claims 2 and 7 are overcome for at least the same reasons given above with respect to the rejections of Claims 1 and 3-6. In view of the foregoing discussion, Applicant respectfully requests the withdrawal of the § 103 rejections of Claims 2 and 7.

Reply Under 37 C.F.R. § 1.116
Serial No.: 10/721,558
Examiner: Tonya S. Joseph

CONCLUSION

For the above reasons, the foregoing amendment places the Application in condition for allowance. Therefore, it is respectfully requested that the rejection of the claims be withdrawn and full allowance granted. Should the Examiner have any further comments or suggestions, please contact the undersigned at the number below.

Respectfully submitted,

GARLICK, HARRISON & MARKISON

Dated: July 28, 2008

/Holly L. Rudnick/

Holly L. Rudnick
Reg. No. 43,065

Garlick, Harrison & Markison
P.O. Box 160727
Austin, Texas 78716-0727
(Direct) (214) 387-8097
(Fax) (214) 387-7949
(Email) hrudnick@texaspatents.com